

REMARKS

Claims 1-21 are pending in this application. By this Amendment, claims 1-8, 12-14, and 17 are amended and new claim 21 is added. Support for these changes may be found, for example, in the original claims and in paragraphs [0023], [0024], [0034], [0041] and Fig. 6. Amendments have been made to the specification and Figs. 3 and 7 to address typographical errors.

The courtesies extended to Applicants' representative by Examiner Mercado at the interview held February 1, 2007, are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below and constitute Applicants' record of the interview.

Applicants understand that Chinese Patent Application CN 1359546A has not been considered by the Examiner as a part of the Information Disclosure Statement filed July 8, 2005, although the translated Chinese Office Action has been considered. The Examiner is requested to indicate that the Chinese reference has been considered. The MPEP expressly indicates that a translated search report or Office Action can serve as Applicant's "statement of relevance" entitling consideration of the references. *See* MPEP 609.04(a) where it is stated:

Where the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office.

Thus, the Examiner's stated reason for not considering the Chinese reference does not follow the PTO's procedures.

Claim 6 stands rejected under 35 U.S.C. §112, second paragraph as said to be incomplete for omitting essential steps. This rejection is respectfully traversed.

Claim 6 has been amended to include the feature that the controller determines the presence or absence of a freeze on the basis of a difference between a command rotational speed of the electrically driven component and the actual rotational speed of the electrically driven component. This feature is shown in Fig. 6 and described in paragraph [0034]. Since claim 6 now recites "a difference between a commanded rotational speed...and an actual rotational speed", it is respectfully submitted that all essential steps are included. Withdrawal of this rejection is respectfully requested.

Claims 1-8, 12, and 14-20 stand rejected under 35 U.S.C. §102(e) over Wheat et al. U.S. Patent No. 6,727,013. This rejection is respectfully traversed.

As discussed during the interview, Wheat fails to teach or suggest a fuel cell system in which a controller or controlling means determines the presence or absence of a freeze, and when a freeze is detected, the controller or controlling means prohibits the start of the fuel cell system by stopping the supply of hydrogen, as recited in claims 1 and 21, or by isolating the gas supply-discharge portion, as recited in claim 17. Similarly, Wheat fails to teach or suggest a method of controlling a fuel cell system that includes a step for prohibiting the start of the fuel cell system by stopping the supply of hydrogen, as recited in claim 14.

Instead, Wheat teaches that heating is performed in the fuel cell stack when a freeze or low temperature is detected while the vehicle is not running and in park. (See column 5, line 30 to column 6, line 40.) There is no suggestion by Wheat to prohibit operation of the fuel cell system; there is only the teaching that heating of the fuel cell should occur. Moreover, Wheat teaches away from either stopping the supply of hydrogen or isolating the gas supply-discharge system by teaching to open the hydrogen supply valve when heating is necessary. (See Wheat, column 3, lines 33-36). Because Wheat fails to teach or suggest all features of the claimed systems and methods, withdrawal of the 35 U.S.C. §102(e) rejection is respectfully requested.

Claims 9-11 stand rejected under 35 U.S.C. §103(a) over Wheat in view of Fuglevand et al., U.S. Patent No. 6,428,918. Claim 13 stands rejected under 35 U.S.C. §103(a) over Wheat in view of Fletcher et al. U.S. Patent No. 5,798,186. These rejections are respectfully traversed.

For at least the reasons described above with respect to the 35 U.S.C. §102(e) rejections, Wheat fails to teach or suggest a fuel cell system or a method of controlling a fuel cell system in which the controller prohibits the operation of the fuel cell system when the presence of a freeze is determined. Neither Fuglevand nor Fletcher cures the deficiency of Wheat to teach these features. As such, withdrawal of the 35 U.S.C. §103(a) rejections is respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-21 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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JAO:LES/axl

Attachments:

Petition for Extension of Time
Amendment Transmittal
Replacement Sheets for Figs. 3 and 7

Date: February 20, 2007

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<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
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Amendments to the Drawings:

The attached replacement drawing sheets makes changes to Figs. 3 and 7 and replaces the original sheets with Figs. 3 and 7.

Attachment: Replacement Sheets